

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF)	UTILITY DIVISION
Tariff Transmittal QCC03-01)	
by Qwest Communications Corporation)	DOCKET NO. D2003.10.153
Initial Tariff and Price List for Qwest)	
Communications Corporation)	ORDER NO. 6523c

ORDER

**GRANTING MOTION FOR RECONSIDERATION AND
APPROVING TARIFF TRANSMITTAL QCC03-01 ON LIMITED INTERIM BASIS**

I. Background

1. On October 21, 2003, Qwest Communications Corporation (“QCC”) filed with the Commission an initial tariff and price list applying to the provision of interexchange telecommunications service in Montana as provided by QCC, requesting service to become effective on November 3, 2003.

2. In its October 21, 2003 filing, QCC stated that the entry of QCC into the Montana market would allow Qwest to “complete the offering of long distance service allowed the by the 271 approval of the FCC in December 2002. With this tariff, Qwest will offer long distance service to the full market in Montana through its 272 subsidiaries.”¹

3. QCC is an affiliate of Qwest Corporation (“QC”), required pursuant to 47 U.S.C. § 272. Qwest Long Distance (“QLD”) is also a Section 272 affiliate of QC. On February 14, 2003, the Commission approved the price lists and tariffs pursuant to which QLD could offer service in Montana.

4. Before the Commission acted on the October 21, 2003 filing, on November 5, 2003, QCC filed a motion for interim relief requesting the Commission permit its tariffs to go into effect as filed on October 21, 2003. In its motion, QCC stated that QCC’s tariffs “reflect the changes QLD made to its tariffs prior to the time QLD’s motion for interim relief was filed and granted.” (Motion

¹ Letter of Cheryl Gillespie to Kate Whitney, dated October 21, 2003, submitting Tariff Transmittal QCC03-01 in

for Interim Relief, filed on November 5, 2003 in D2003.10.153.) On December 19, 2003, the PSC denied QCC's motion for interim relief.

5. QCC is capable of providing service to all toll and interexchange customers in the state of Montana. (Motion for Interim Relief, paragraph 6, filed on November 5, 2003 in D2003.10.153.)

6. QCC and QLD are Qwest subsidiaries, providing interexchange telecommunications service in the State of Montana. QLD is a reseller of long distance telecommunications services; QCC is a facilities based provider of telecommunications services in Montana. QC has represented to the Commission that it is not known when or if QCC and QLD will merge.

7. On December 29, 2003 QCC filed a motion for reconsideration of the Order denying QCC's motion for interim relief.

II. Findings of Fact

8. The Commission adopts its conclusion in Docket No. D2002.12.153, regarding the manner in which QC's long distance affiliate in Montana is regulated. QCC and QLD are both long distance affiliates of QC operating in Montana, and the Commission finds that as with QLD, the Other Common Carrier regime ("OCC")² is the most appropriate regulatory structure to be applied to the long term toll offering by the long distance affiliate of Qwest Corporation (in this docket, QCC). The Commission finds that, as with QLD, QCC's entry into the long distance interexchange market will likely reduce market concentration and increase the competitive market in Montana. The Commission notes that should the competitive market conditions change as a result of QCC's entry, the Commission may exercise its regulatory authority over QCC in a comprehensive manner.³ The Commission will require periodic reporting of QCC's market penetration as set forth below.

9. The Commission adopts its finding in the QLD docket regarding customer

D2003.10.153 to the PSC.

² For background and history of this level of regulation in Montana, see Order No. 6479d in D2002.12.153.

³ In 1994, the Commission noted that while the "overwhelming evidence reveals an effectively competitive interLATA market today, that condition could be threatened by USWC's (Qwest's predecessor) entry" into the interexchange market (parenthetical added). See also Dissent of Commissioner Rowe in Order 5778d, noting that "underlying principles of universal service demonstrates that long distance phone service continues to be affected with significant public interests. These public interests confirm that the commission should not wholly abandon its statutory responsibility to at least minimally ensure that rates for basic message toll long distance service are just and reasonable." (Dissent of Commissioner

disclosures, and finds that QCC must include a bill insert that diagrams the total bill to the consumer of each of the residential rate options. Each time a new residential offering occurs, the rate on an existing offering is changed, or a promotional offering is tendered, QCC must again include a bill insert that diagrams all options. Such information is intended to enable consumers to make informed judgments about which of the long distance tariff offerings will be least cost.

10. New or revised tariffs and price lists will not be approved prior to the Commission approving the required bill inserts in accordance with this Order.

11. The Commission adopts its findings in the QLD docket requiring the QC affiliate to file certain information. For each tariff or price list under which QCC markets intrastate telecommunications services in Montana, QCC must provide the number of customers served and the overall minutes of use that it sells on each such Montana tariff or price list. QCC must also report the same data for each interstate tariff that QCC offers in conjunction with the Montana intrastate tariffs. An initial report shall be filed within ten days of this Order. Subsequent reports shall be filed ninety days from the date of this Order, six months from the date of this Order, and every six months thereafter, either until QLD ceases marketing service to new customers or until the requirement is terminated by the Commission.

12. The Commission finds that QCC's price list and tariff as filed with the Commission on October 21, 2003 is approved, subject to the limitations and reservations that were applied to QLD in Order No. 6479d in Docket No. D2002.12.153. QCC may begin offering service in Montana once QCC has demonstrated, and the Commission has approved, QCC's compliance with this Order.

13. The procedural schedule in this docket was suspended pending the Commission's ruling in D2002.12.153. The procedural schedule will be reinstated by separate order.

14. QCC's October 21, 2003 filing is approved on an interim basis, subject to revision after the final hearing in this docket.

15. The Commission finds that it is in the interests of Montana consumers to have one long distance affiliate of QC offering service in Montana, and urges QC, QLD and QCC, to offer a single statewide tariff through one long distance affiliate of QC, and to phase out the separate offerings that are currently available through either QLD or QCC.

III. Conclusions of Law

1. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA. QCC is a public utility offering regulated telecommunications services in the State of Montana. Sections 69-3-101, 803, MCA.
2. Every public utility shall file with the Commission tariffs (schedules) that are in force at the time any service is to be performed by it within the State of Montana. Section 69-3-301, MCA.
3. QCC is not currently authorized to provide service in Montana.
4. The rates that QCC is entitled to charge for service in Montana must be just and reasonable, and QCC has the burden of showing that the rates it proposes charging in Montana are just and reasonable. MCA § 69-3-201.
5. The Commission approves QCC's proposed price list and tariff filed on October 21, 2003, subject to the specific reservations and limitations set out in this order, and on an interim basis, pending the outcome of the hearing in this docket.

V. Order

THEREFORE, based upon the foregoing, it is ORDERED that:

1. QCC's motion for reconsideration is granted.
2. QCC's October 21, 2003 tariff filing is approved, subject to the specific limitations and reservations as set forth in this Order, on an interim basis pending the hearing in this docket.

DONE AND DATED this 18th day of February, 2004, by a vote of 4 to 1.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ROWE, Chairman

THOMAS J. SCHNEIDER, Vice Chairman

MATT BRAINARD, Commissioner

GREG JERGESON, Commissioner, Voting to Dissent

JAY STOVALL, Commissioner

ATTEST:

Commission Secretary
Connie Jones

(SEAL)

NOTE: You may be entitled to judicial review in this matter. Judicial review may be obtained by filing a petition for review within thirty (30) days of the service of this order. Section 2-4-702, MCA.

